



MARK COLEMAN  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

FRANK KEATING  
Governor

March 14, 2002

U.S. Army Corps of Engineers  
ATTN: Regulatory Branch  
1645 South 101<sup>st</sup> East Avenue  
Tulsa, OK 74128-4609

**RECEIVED**

**MAR 19 2002**

**REGULATORY**

Re: Water Quality Certification for Nationwide Permits

We have received your request for a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (Public Law (P.L.) 92-500), as amended by the Clean Water Act of 1977 (P.L. 95-217), for activities to be permitted under Section 404 of the Act. The Department of Environmental Quality rules governing 401 Certification are contained in Oklahoma Administrative Code (OAC) 252:610-1-1, and 252:610-3-1 through 252:610-3-10 pursuant to 27A Oklahoma Statute, Section 2-6-103(C)(2). For copies of the Department rules and regulations related to the 401 procedures, please contact the Customer Assistance Division at (405) 702-6100.

This Water Quality Certification supercedes all previous Water Quality Certifications for Nationwide Permits, in the state of Oklahoma.

The Oklahoma Department of Environmental Quality (DEQ) has concerns related to the viability of achieving the federal standard of "no net loss" with the Nationwide Permit program as it stands. The DEQ also has concerns related to application of mitigation requirements on a case-by-case basis to achieve this goal. The DEQ must rely on the strict adherence to the NWP General Condition 19 by the US Army Corps of Engineers.

On NWP 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 32, 33, 36 and 41 in the watersheds of Outstanding Resource Waters designated in Oklahoma's Water Quality Standards, the DEQ would have much preferred to be notified of proposed activities through receipt of PCNs. The DEQ estimates the PCN process would have created a maximum delay in processing of 15 days, compared to the minimum of a 30 day delay necessitated through denial. However, the DEQ reluctantly has complied with the Corps direction.

Accordingly, Water Quality Certification for Nationwide Permits, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 36, 39, 40, 41, 42, 43 and 44 is denied for all activities in the watersheds of Outstanding Resource Waters designated in Oklahoma's Water Quality Standards. Individual streams designated as Outstanding Resource Waters which are explicitly listed in Appendix A of Oklahoma's Water Quality Standards have been designated as Critical Resource Waters by the District Engineer and are subject to NWP Special Condition 25.

DEQ acknowledges that the potential to use NWP 24, 26 and 34 in Oklahoma is not likely. However, for administrative clarity the Water Quality Certification is denied for NWP 24, 26, and 34.



Subject to the exceptions noted above, the Oklahoma Department of Environmental Quality grants Clean Water Act 401 Water Quality Certification for the Corps of Engineers Nationwide Permits subject to the following conditions:

These conditions for the Nationwide Permits are:

1. All spills of fuel or other pollutants in excess of five gallons shall be reported to the DEQ, within twenty-four (24) hours, to the pollution prevention hotline at 1-800-522-0206.
2. All fueling and servicing of vehicles and equipment shall be done above the Ordinary High Water Mark (OHWM).
3. Permittee shall provide access to the property for DEQ inspection purposes.
4. Any material and fuels used in the project shall be stored and/or stockpiled above the Ordinary High Water Mark (OHWM) and shall be removed from a likely flood zone prior to any predicted flood.
5. If a stormwater discharge permit for construction activities is required, one can be obtained from the DEQ at (405) 702-8100.
6. For Nationwide Permit 16, discharges associated with Upland Contained Disposal Areas. The discharge shall not contain a Total Suspended Solids concentration of greater than 30 mg/L and shall maintain a p.H. between 6.5 and 9.0.

If you have any questions regarding this Certification, please contact Stephen Weber at 405-702-8100.

Sincerely,



Jon L. Craig, Director  
Water Quality Division, DEQ

SWW/WTC/GWJ/MD/CK/JLC/js

- c: Andrew R. Commer, Regulatory Branch, U.S. Corps of Engineers, Tulsa  
Director, Oklahoma Department of Wildlife Conservation  
Director, U.S. Fish and Wildlife Service, Tulsa  
Regional Administrator, EPA Region 6 (6E-FT)  
Chief Environmental Protection Unit, Attorney General of Oklahoma  
Kelly Hunter-Burch, Assistant Attorney General, Attorney General of Oklahoma  
Mike Thralls, Oklahoma Conservation Commission  
Administrator, Oklahoma Scenic Rivers Commission